

Proposal for Legislation -- 2013 Child Abuse and Neglect Mandatory Report Information

Return to:

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PROPOSER'S NAME/TITLE: Sarah Corbally/Division Administration
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1. What is the problem or issue?

RE: Child Abuse and Neglect Mandatory Reporter Information Sharing

Mandatory reporters of child abuse and/or neglect have shared with the Director and the Office of the Governor the need for the Child and Family Services Division to have the authority to share information regarding information obtained and actions taken in response to reports of suspected child abuse and/or neglect with mandatory reporters. Improvement is needed regarding information sharing in both directions to keep Montana children safer.

2. What do you want the legislation to do?

The legislation would change the current mandatory reporter statute, by adding a subsection (5) as follows:

41-3-201. Reports. (1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

- (a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;
- (b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;
- (c) religious healers;
- (d) school teachers, other school officials, and employees who work during regular school hours;
- (e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;
- (f) a foster care, residential, or institutional worker;
- (g) a peace officer or other law enforcement official;

- (h) a member of the clergy, as defined in 15-6-201(2)(b);
 - (i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or
 - (j) an employee of an entity that contracts with the department to provide direct services to children.
- (3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.
- (4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.
- (5) When a professional or official required to report in subsection (2) makes a report, the Department may share information with that professional or official with regards to whether an investigation into the report shall occur, the timeframe in which the investigation will occur, and information limited to the outcome of the investigation, the factual basis for the outcome, and any subsequent action that will be taken on behalf of the child(ren) who are the subject of the report.
- (6) (a) Except as provided in subsection (5)(b) or (5)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.
- (b) A member of the clergy or a priest is not required to make a report under this section if:
- (i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;
 - (ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and
 - (iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.
- (c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.
- (7) The reports referred to under this section must contain:
- (a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;
 - (b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;
 - (c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or neglect; and
 - (d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter.

3. **If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.** 41-3-201
4. **If the proposed change requires additional funding, what funding sources do you propose?** There is no anticipated fiscal impact as a result of this proposal.
5. **Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.** No.

**Proposal for Legislation -- 2013
Payment of Expenses for Deceased Medicaid Clients**

Return to:

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PROPOSER'S NAME/TITLE:	Mary Dalton/Medicaid & Health Services Branch Manager
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1. **What is the problem or issue?**
RE: Deceased Medicaid Clients
Constituent experiences - No monies allocated to cover the costs of returning Medicaid clients to their home communities after they were referred for out-of-state medical services but died before returning to Montana.
2. **What do you want the legislation to do?**
Grant an allowance to cover the costs of returning Medicaid clients to their home communities after they were referred for out-of-state medical services but died before returning to Montana.
3. **If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.** New legislation proposed for codification in Title 53, chapter 6, part 13.
4. **If the proposed change requires additional funding, what funding sources do you propose?**

To be added; but minimal impact anticipated.
5. **Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.**

No.

Proposal for Legislation -- 2013

Medicaid Eligibility for Minors Subject to Subsidized Guardianship

Return to:

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PROPOSER'S NAME/TITLE: Kathe Quittenton/Chief of Public Assistance Bureau
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1. What is the problem or issue?

The Social Security Act was amended in 2008 with the "Fostering Connections to Success Act" to make children in subsidized guardianships categorically eligible for Medicaid. Title 53 should be amended to accurately state Montana's Medicaid eligibility statute in conformity with the federal law.

2. What do you want the legislation to do?

Amend 53-6-131, MCA, to include Medicaid eligibility for minors subject to a subsidized guardianship.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

MCA 53-6-131 (1)(d)

4. If the proposed change requires additional funding, what funding sources do you propose?

None anticipated as children in subsidized guardianships are typically already receiving Medicaid.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

No.

Proposal for Legislation -- 2013
Revise Public Assistance Laws Relating to Counties and Commissioners

Return to:

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PROPOSER'S NAME/TITLE:	Kathe Quittenton/Chief of Public Assistance Bureau
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1. What is the problem or issue?

53-2-304, MCA, includes statutory language regarding the Department's management of local offices of public assistance. This statutory language no longer has effect because counties no longer supervise local offices of public assistance, and because it conflicts with § 53-2-203, MCA, which requires the department to "supervise the appointment, dismissal, and entire status of the public assistance personnel attached to local offices of public assistance."

2. What do you want the legislation to do?

Repeal MCA 53-2-304 (1) (b) through 53-2-304 (3).

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

53-2-304, MCA

Additional statutes as required to remove outdated references to county administration of local offices of public assistance.

4. If the proposed change requires additional funding, what funding sources do you propose?

None

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

No

Proposal for Legislation -- 2013 **Revise Public Assistance Statutes Relating to County Involvement**

Return to:

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PROPOSER'S NAME/TITLE:	Kathe Quittenton/Chief of Public Assistance Bureau
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ADDRESS:	111 N. Jackson Street; Helena, MT 59620
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1. What is the problem or issue?

53-2-305, MCA, includes statutory language regarding agreements with the boards of county commissioners regarding various management issues for local offices of public assistance. This statutory language no longer has effect because counties no longer administer local offices of public assistance and it conflicts with the first sentence of § 53-2-305, MCA, "Local offices of public assistance are under the supervision of the department and are subject to audit by the department."

2. What do you want the legislation to do?

Amend 53-2-305 (1), MCA, by deleting all but the first sentence and repeal 53-2-305(2), MCA.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

53-2-305, MCA,
Additional statutes as required to remove outdated references to county administration of local offices of public assistance.

4. If the proposed change requires additional funding, what funding sources do you propose?

None

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

No.

Proposal for Legislation -- 2013 Clarify I-149 and I-155 Funding Uses

Return to:

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PROPOSER'S NAME/TITLE:

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1. What is the problem or issue?

Currently DPHHS can only use this initiative-based funding for the purpose of supporting additional children above the enrollment dates outlined in statute. Enrollment has grown to a level where the funding provided will always support the new enrollees. The statutes, as currently written, create an unnecessary and administratively burdensome process, which requires the department to separately track and account for this funding throughout the year.

2. What do you want the legislation to do?

Removing this wording will allow the funding to be used on all children who qualify for enrollment instead of only those above the November 4, 2008 enrollment requirement.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

I-155, 53-4-1115, MCA
I-149, 53-6-1201, MCA

4. If the proposed change requires additional funding, what funding sources do you propose?

None

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

Yes, bill draft requested prior to the 2011 Legislative Session but the request was cancelled on 11-5-2012. Point of Contact: Mary Dalton.